

PRIVACY AND RECORDS MANAGEMENT OFFICE



May 15, 2019

Patrick G. Eddington
Policy Analyst in Civil Liberties and Homeland Security
Cato Institute
1000 Massachusetts Avenue, NW
Washington, DC 20001-5403

Re: Freedom of Information Act Request #2019-FPRO-00923

Dear Mr. Eddington:

This responds to your May 12, 2019, Freedom of Information Act request in which you request the following:

Any correspondence to or from the United States Postal Service and any other department or agency of the Executive branch, including any offices connected with the President or Vice president, concerning plans, policies, or programs regarding implementation of a registration or detention program for 1) persons of the Muslim faith, regardless of nationality (including natural born or naturalized American citizens) or 2) persons of Arab or Persian/Iranian heritage in the event of the declaration of a national emergency by the President or the enactment of an Authorization for the Use of Military Force (AUMF) or Declaration of War (DoW) against any nation:

- 1) In which Islam is the predominant religion; or*
- 2) In which the country or countries against which an AUMF or DoW corresponds to a specific Arab heritage, Persian/Iranian heritage, or other ethnic, religious, or racial heritage group present in the United States.*

The Freedom of Information Act (FOIA), 5 U.S.C. §552, is a records and document statute. Identification of the record(s) desired is the responsibility of the requester, pursuant to 5 U.S.C. § 552(a)(3)(A), which requires the requester to reasonably describe the records being sought. A description is considered reasonable if it permits an agency employee who is familiar with the subject area to locate the requested records with a "reasonable" amount of effort.

In this case, your request is very broad in scope because your request did not provide: the name of the Postal Service office or department that would maintain the records, geographic location of the records, or the specific departments or agencies of the Executive branch you believe would have communicated with the Postal Service regarding the subject of your request. Also, your request covers a lengthy period of time (09/01/2001 to 05/12/2019). Please be advised that, while we wish to fully cooperate in processing your request, your letter does not provide sufficient detail to allow for the ready identification and retrieval of the desired documents. As information, the Postal Service has over 30,000 facilities at which records are maintained. The various records at these facilities are not centrally indexed. As such, a request for records about a broad category is generally not considered to meet the reasonable description requirement.

Accordingly, we will need more definitive information concerning the records you seek. If you choose to clarify your request for records, please be advised that the Postal Service's regulations, found at 39 C.F.R. § 265.3(c), provide guidance on how to submit a FOIA request.

475 L'Enfant Plaza SW, Rm. 1P830
Washington DC 20260-1101
(202) 268-2608
FAX: (202) 268-5353

Exhibit B

That guidance provides that requesters should, whenever possible, include specific information about each record sought, such as the type of record (e.g., contract, report, memorandum, etc.); the title or case number of a specific document or report; the topic of the subject matter; the name of the office, facility, functional unit or employees most likely to possess the record; the geographic location, such as a city and state, where the records are thought to exist; the date or general timeframe of the record's creation; and any details related to the purpose of the record. Requests for email records should specify the likely senders and recipients, keywords, and a range of dates.

Given that your request cannot be processed as formulated, we plan to take no further action unless we hear back from you. If we do not receive your clarification about the records sought within 30 calendar days from the date of this letter, we will administratively close out this request.

We note that you requested a waiver of all fees and expedited processing of your request. Consideration will be given to your fee waiver and expedited processing requests once you have submitted a proper FOIA request. We offer the following guidance for your reference. We suggest you review this information in order to amend your request as may be appropriate.

Fees under the FOIA shall be waived or reduced "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). In determining whether a requester satisfies this standard, we consider six factors in the Postal Service's FOIA regulations. See 39 C.F.R. § 265.9(j). The first four of these factors concern the public interest requirement; the fifth and sixth factors concern the requirement that the requester's commercial interest in the disclosure, if any, must be less than the public interest in disclosure. Both of these statutory requirements must be satisfied before fees are waived or reduced. The requester bears the burden of showing that this standard is met.

- The first factor of the public interest test requires that "the subject of the request must concern identifiable operations or activities of the Postal Service, with a connection that is direct and clear, not remote or attenuated." See 39 C.F.R. § 265.9(j)(2)(i).
- Factor two of the public interest test requires that "the requested records must be meaningfully informative about government operations or activities in order to be likely to contribute to an increased public understanding of those operations or activities." See 39 C.F.R. § 265.9(j)(2)(ii).
- Factor three of the public interest test requires that "the disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as the requester's ability and intention to effectively convey information to the public shall be considered. A representative of the news media does not automatically satisfy this consideration." See 39 C.F.R. § 265.9(j)(2)(iii).
- Factor four of the public interest test requires that "public's understanding of the subject in question must be enhanced by the disclosure to a significant extent." See 39 C.F.R. § 265.9(j)(2)(iv).
- *Factors Five and Six*

Title 39 C.F.R. § 265.9(j) provides that responsive records shall be furnished without charge, or at a reduced rate, if a component determines that the requester has demonstrated that disclosure of the information is not primarily in the requester's commercial interest.

FOIA requests shall be processed on an expedited basis whenever it is determined that they involve: (i) circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; (ii) an urgency to inform the public about an actual or alleged Federal Government activity, if made by a person who is primarily engaged in disseminating information.” 39 C.F.R. § 265.5(c). In order to be granted expedited processing of a FOIA request, you must provide information in sufficient detail to demonstrate compelling need for the records and certify this statement to be true and correct to the best of your knowledge and belief.

If you are not satisfied with the response to this request, you may file an administrative appeal within 90 days of the date of this response letter by writing to the General Counsel U.S. Postal Service 475 L’Enfant Plaza SW Washington, DC 20260 or via email at FOIAAppeal@usps.gov. Your appeal must be postmarked or electronically transmitted within 90 days of the date of the response to your request. The letter of appeal should include, as applicable:

- (1) A copy of the request, of any notification of denial or other action, and of any other related correspondence;
- (2) The FOIA tracking number assigned to the request;
- (3) A statement of the action, or failure to act, from which the appeal is taken;
- (4) A statement identifying the specific redactions to responsive records that the requester is challenging;
- (5) A statement of the relief sought; and
- (6) A statement of the reasons why the requester believes the action or failure to act is erroneous.

For further assistance and to discuss any aspect of your request, you may contact the FOIA Public Liaison listed below:

Privacy & Records Management Office
U. S. Postal Service
475 L’Enfant Plaza SW, Room 1P830
Washington, DC 20260-1101
Phone: (202) 268-2608
Fax: (202) 268-5353
FOIA Public Liaison: Jane Eyre

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services,

National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Jane Eyre
Deputy Chief FOIA Officer